

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF COLUMBIA GAS OF)	CASE NO.
KENTUCKY, INC. FOR AN ADJUSTMENT)	2016-00162
IN RATES)	

ORDER

This matter arises upon the motion of Stand Energy Corporation (“Stand Energy”) filed July 1, 2016, for full intervention in this case.¹ Stand Energy describes itself as a Kentucky corporation, whose office is in Cincinnati, Ohio, that privately markets natural gas to public and private customers in numerous states (including Kentucky) behind more than 50 local distribution companies, including Columbia Gas of Kentucky, Inc. (“Columbia”) and other NiSource affiliated companies. Stand Energy states that it has 32 years of experience in energy regulatory proceedings and that it seeks intervention in this case to advocate for changes in Columbia’s Small Volume Gas Transportation Service (“Choice Program”) and for lower transportation thresholds. Stand Energy cites the Commission’s Order in Administrative Case No. 2010-00146² as authority for its motion to intervene, claiming that per that Order, the Commission is required to conduct a review of Columbia’s transportation thresholds in “subsequent general rate cases.”

¹ Stand Energy’s motion to intervene was untimely filed; however, this issue is moot based on the Commission’s findings as set forth in this Order.

² Administrative Case No. 2010-00146, *An Investigation of Natural Gas Retail Competition Programs* (Ky. PSC Dec. 28, 2010).

On July 8, 2016, Columbia filed its response to Stand Energy's motion, pointing out that Stand Energy seeks intervention not as a customer of Columbia, but as a competitor, which does not provide grounds for full intervention. Columbia further clarifies that with respect to the Commission's Order in Administrative Case No. 2010-00146, the language of that Order mandated review of transportation thresholds in the "next general rate proceeding," not "subsequent rate cases." Columbia notes that the Commission reviewed Columbia's transportation thresholds in Case No. 2013-00167,³ Columbia's last base rate case, which was the "next general rate proceeding" following the Commission's Order in Administrative Case No. 2010-00146, thereby accomplishing the goal set forth in that administrative order.

In Stand Energy's reply, filed July 14, 2016, Stand Energy asserts that the Commission's review of Columbia's transportation thresholds in Case No. 2013-00167 did not result in any substantive changes and therefore was insufficient. Stand Energy also asserts that it is not a competitor of Columbia.

Based on the motion to intervene and being otherwise sufficiently advised, the Commission finds that the only person who has a statutory right to intervene in a Commission case is the Attorney General, pursuant to KRS 367.150(8)(b). Intervention by all others is permissive and is within the sound discretion of the Commission.⁴ The Court of Appeals has held that the Commission's discretion to grant or deny a motion for intervention is not unlimited, and enumerated the limits on the Commission's

³ Case No. 2013-00167, *Application of Columbia Gas of Kentucky, Inc. for an Adjustment of Rates for Gas Service* (Ky. PSC Dec. 13, 2013).

⁴ *Inter-County Rural Electric Cooperative Corporation v. Public Service Commission of Kentucky*, 407 S.W.2d 127, 130 (Ky. 1966).

discretion: one arising under statute, the other under regulation.⁵ The statutory limitation, KRS 278.040(2), requires that “the person seeking intervention must have an interest in the ‘rates’ or ‘service’ of a utility, since those are the only two subjects under the jurisdiction of the PSC.”⁶

The regulatory limitation is set forth in 807 KAR 5:001, Section 4(11)(a), which requires a person to demonstrate either (1) a special interest in the proceeding which is not otherwise adequately represented in the case, or (2) that intervention is likely to present issues or develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings.

In analyzing the pending motion to intervene, we find that Stand Energy does not receive natural gas service from Columbia and is not a customer of Columbia. Rather, Stand Energy is a competitive supplier of retail natural gas service. Thus, Stand Energy lacks the necessary interest in the natural gas rates or natural gas service of Columbia sufficient to justify intervention.

With respect to gas service in Kentucky, supplying competitive natural gas is not prohibited per se, but may be authorized by the Commission. In the case of Columbia Gas, the Commission has authorized tariffs permitting all classes of customers to obtain competitive supplies of natural gas through its transportation programs. Thus, the only interest that Stand Energy arguably has in the natural gas rates and service of Columbia is as a competitor, and that interest is too remote to justify intervention here.

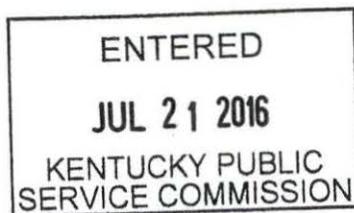
⁵ *EnviroPower, LLC v. Public Service Commission of Kentucky*, No. 2005-CA-001792-MR, 2007 WL 289328 (Ky. App. Feb. 2, 2007).

⁶ *Id.* at 3.

The Commission further finds that an investigation of expanding retail natural gas competition in Kentucky markets was conducted in Administrative Case No. 2010-00146, a case in which Stand Energy was granted intervention and fully participated. The Commission's decision in that investigation was to not mandate competitive retail natural gas programs in Kentucky without additional statutory authority and consumer protections. Consequently, the Commission will not revisit those issues with regard to Columbia's Choice Program in this case, and Stand Energy's status as a competitive supplier of natural gas does not justify its intervention in this case.

IT IS THEREFORE ORDERED that Stand Energy's motion to intervene is denied.

By the Commission



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